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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,547	03/18/2004	Jeffrey Siegel	56464-00520USPT	5678
23932	7590	12/03/2004	EXAMINER	
JENKENS & GILCHRIST, PC 1445 ROSS AVENUE SUITE 3200 DALLAS, TX 75202			WILSON, LEE D	
			ART UNIT	PAPER NUMBER
			3723	
DATE MAILED: 12/03/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/803,547	SIEGEL ET AL.	
	Examiner	Art Unit	
	LEE D WILSON	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/10/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: The inventors did not sign the declaration.

Claim Rejections - 35 USC § 112

2. Claims 2-4, 6-7, 18, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The following phrases are vague, indefinite, confusingly, and awkwardly worded:

- i. "an entire circumference" in claim 2, line 1 and claim 18, lines 1&2. This should be a perimeter because applicant does not disclose a circular shape. This cannot be true for a rectangle.
- ii. claim 3 states that the projections are on the corner and the invention only discloses them near the corner and not on it.
- iii. Claim 4 is awkward because if the structure has a specific function why is necessary to say it is inherent.
- iv. Claim 6 states that the cutting surfaces is pebble but what does this term mean. Applicant should say projection, protrusion, and/or knurling. These terms are clear.
- v. Claim 23 appears to be a method step of making by reciting how the element is made instead of calling out the structure. What exactly is overmolded.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1- 2, 4-5, 7, 12-17, and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by brooke (2868145).

Brooke discloses a cutting board having a base board (20), a sloping trough slide (fig.3 and element 21) and plastic and wood materials.

5. Claims 1- 12, 17-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibson (5527022).

Gibson discloses a cutting board having a base board (12), a sloping trough slide (28) and a rubber material and other flexible materials .

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 13-16, 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson (5527022) in view of Landherr (6341770).

b. Gibson discloses the claimed invention except for plastic and a sprout region.

c. Landherr discloses a cutting board with plastic and shape having a sprout region (10&17) which is another alterative shape as well as another alternative rectangular shape made out plastic and other materials.

d. It would have been obvious to one having ordinary skill in the art at the time of invention to have modified the Gibson device by providing an alternative shape made out of plastic and other materials as taught by Landherr which is another alterative shape as well as another alternative rectangular shape made out plastic and other materials.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ferguson and Petterson disclose a device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

November 28, 2004



**LEE D. WILSON
PRIMARY EXAMINER**